

## **REMARKS**

Applicant respectfully requests reconsideration of the subject application for the reasons set forth herein.

### **Objection to the Specification**

Line 18 of page 11 of the specification stands objected to in the Office Action due to lack of antecedent basis for the term “the deliveror” and because it is not clear who the deliveror is: a truck driver or an operator at the facility. Applicant respectfully submits that in light of the substituted specification, the Office Action’s objections have been overcome.

### **35 U.S.C. § 112 Rejections**

Claims 1-13 and 15 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully submits that in light of the amendments to Claims 1 and 15, the Office Action’s rejection of these claims has been overcome. Applicant further submits that the Office Action’s rejection of Claims 2-13 has similarly been overcome by virtue of these claims’ ultimate dependency from patently distinct base Claim 1.

### **35 U.S.C. § 101 Rejections**

Claims 1-13 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicant respectfully submits that in light of the amendments to Claim 1, the Office Action’s rejection of this claim has been overcome.

Applicant further submits that the Office Action's rejection of Claims 2-13 has similarly been overcome by virtue of these claims' ultimate dependency from patently distinct base Claim 1.

### **35 U.S.C. § 102 Rejections**

Claims 1-7, 11-13, and 16-19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Radican, International Publication No. WO 99/38136 ("Radican"). Applicant traverses these rejections, and deems them overcome, for at least the following reasons. 35 U.S.C. § 102(b) states:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

Accordingly, MPEP 2131 states:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Radican fails to disclose all of the elements of independent Claims 1 and 16 and dependent Claims 2-7, 11-13, and 17-19.

### **Radican Does Not Teach Scanning an Identification of the Receiving Station**

Amended independent Claim 1 recites, in part, "a materials management system, comprising:...at least one receiving station...wherein...the at least one attribute and the at least one updated attribute are transmitted, entered, checked, and verified at the receiving station by scanning an identification of the at least one receiving station..." The Office Action asserts that Claim 1 is anticipated by sections of Radican which disclose "Teklogix, or bar code readers

such as the Telxon PTC 921 and PTC 912DS..." and "the CMCS 10 is commonly linked with a plant or customer MIS 30 and container carrier MIS 40 for cross exchange of container and inventory data. Of course, connections could also be made to additional MISs and/or databases to further expand the accessibility of container data compiled by the CMCS 10..." and "[a]s a container C...approaches gate G of facility F, the carrier and container identifying indicia on the vehicle (for example a SCAT code) which is input to the CMCS along with a corresponding container number which appears on the exterior of the container, along with the time of arrival." See Radican, page 8, lines 16 and 28-32; and page 9, lines 7-11.

However, the cited teachings in Radican fail to anticipate Applicant's invention, at least because Radican does not teach the element of *scanning an identification of at least one receiving station*. In fact, Radican fails to disclose the use of *any* receiving station information, let alone the scanning of it. Radican teaches the use of identifying indicia on the *vehicle*, but fails to disclose any use of the *identification of the receiving station*. See Radican, page 9, lines 7-11. Because Radican fails to teach the element of scanning an identification of at least one receiving station of Claim 1, Applicant respectfully submits that Radican fails to teach at least this element of independent Claim 1.

Accordingly, Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection of Claim 1, deems it overcome, and requests its removal. Furthermore, Applicant respectfully submits that each of Claims 2-7 and 11-13, which ultimately depend on independent Claim 1, and, consequently, Applicant traverses the 35 U.S.C. § 102(b) rejections of Claims 1-7 and 11-13, deems them overcome, and respectfully requests removal of these rejections.

**Radican Does Not Teach Receiving an Updated Attribute at a Local Receiving Station in Accordance with an Entry of the Updated Attribute**

Independent Claim 16 recites, in part, “a method of controlling materials in a material flow...comprising: ... receiving the at least one updated attribute at an at least one local receiving station, in accordance with an entry of the at least one updated attribute.” The Office Action rejects this, asserting that Radican on page 8, lines 20-27, in disclosing “[t]he CMCS 10 is interoperable with other computing systems such as for example a management information system (MIS) of a facility to which containers are delivered...,” reads on Claim 16. *See* Radican, page 8, lines 20-27. While, here, Radican discloses that two or more computer systems are interoperable with one another, Radican fails to teach *receiving an updated attribute* at a local receiving station *in accordance with* an entry of the updated attribute. *Id.* Because Radican fails to teach a system wherein an updated attribute is received at a local receiving station in accordance with an entry of the updated attribute, Radican does not anticipate all elements of Applicant’s Claim 16. Applicant respectfully submits that Radican fails to teach at least this element of independent Claim 16.

Accordingly, Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection of Claim 16, deems it overcome, and requests its removal. Furthermore, Applicant respectfully submits that each of Claims 17-19, which ultimately depend on independent Claim 16, and, consequently Applicant traverses the 35 U.S.C. § 102(b) rejections of Claims 17-19, deems them overcome, and respectfully requests removal of these rejections.

### **35 U.S.C. § 103 Rejections**

Claims 8-10 stand rejected as being unpatentable over Radican in view of Markham et al, U.S. Patent Application No. 2003/0158795 (“Markham”). Claims 11, 14, and 15 stand rejected as being unpatentable over Radican. Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. §103(a) recites:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Hence, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP 706.02(j).

#### Radican and Markham Do Not Teach Scanning an Identification of the Receiving Station

Amended independent Claim 1 of the present invention recites, in part, “a materials management system, comprising:...at least one receiving station...wherein...the at least one attribute and the at least one updated attribute are transmitted, entered, checked, and verified at the receiving station by scanning an identification of the at least one receiving station...” For at least the reasons set forth hereinabove, Radican fails to teach all of the limitations of independent Claim 1, at least in that Radican fails to disclose the element of scanning an identification of at least one receiving station of Claim 1. While the Office Action points out that Markham teaches that a remote data transceiver may be a hand-held device such as a PDA (*see, generally*, Markham), the disclosures in Markham also do not teach the element of scanning an identification of at least one receiving station of Claim 1. Therefore, Applicant submits that the cited references of Radican

and Markham, neither individually nor in combination, teach or suggest all features of Applicant's present invention.

Accordingly, Applicant respectfully submits that independent Claim 1 is patentably distinguishable over the prior art of record. Applicant further submits each of the dependent Claims 8-10 are similarly distinguishable over the prior art of record, at least by virtue of each Claim's ultimate dependency from patentably distinct base Claim 1.

Radican Does Not Teach Scanning an Identification of the Receiving Station

Amended independent Claim 1 of the present invention recites, in part, "a materials management system, comprising:...at least one receiving station...wherein...the at least one attribute and the at least one updated attribute are transmitted, entered, checked, and verified at the receiving station by scanning an identification of the at least one receiving station..." For at least the reasons set forth hereinabove, Radican fails to teach all of the limitations of independent Claim 1, at least in that Radican fails to disclose the element of scanning an identification of at least one receiving station of Claim 1. While the Office Action points out that Radican teaches that an updated attribute comprises a bar code realized as scannable bar code tags which are placed on the at least one material flow item and also that printers can be used for producing hard copy reports (Radican, page 19, lines 27-28; page 8, lines 5-6), these disclosures in Radican also do not teach nor suggest the element of scanning an identification of at least one receiving station of Claim 1. Therefore, Applicant submits that the citations in Radican, neither individually nor in combination, teach or suggest all features of Applicant's present invention.

Accordingly, Applicant respectfully submits that independent Claim 1 is patentably distinguishable over the prior art of record. Applicant further submits that dependent Claim 11 is

similarly distinguishable over the prior art of record, at least by virtue of its ultimate dependency from patently distinct base Claim 1.

Radican Does Not Teach Scanning an Identification of the Receiving Station

Independent Claim 14 of the present invention recites, in part, “a method of controlling a materials management flow..., comprising:...scanning an identification of the first local receiving station..., ...scanning the identification of the secondary receiving station...[and], scanning the identification of the at least one tertiary receiving station...” As noted by the Office Action, Radican fails to teach all of the limitations of independent Claim 14, at least in that Radican fails to disclose the element of scanning each of a plurality of identifications of receiving stations. In asserting that Claim 14 is obvious, the Office Action points to Radican claiming Radican teaches that each of said receiving stations has a unique identifier (*see* Radican, page 7, lines 2-11, and 17) and that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Radican to include scanning an identification of the at least one receiving station. Applicant submits that Radican fails to disclose that receiving stations have unique *identifiers* because Radican discloses that ‘receiving area Y is assigned a unique *designator*...[and] docks are uniquely *designated*...[and] [m]overs of *shipping containers*, and each *shipping container* is also uniquely identified by a code or number.’’ Radican, emphasis added, page 7, lines 3-6. Not only does Radican fail to disclose that receiving stations have unique *identifiers*, but also Radican teaches that it was *not obvious* to one of ordinary skill in the art that receiving stations have unique identifiers because Radican in fact distinguishes between *designators* and *identifiers* by specifically stating that a “receiving area” and “docks are uniquely *designated*,” whereas “[m]overs of shipping containers, and each shipping container is *also* uniquely *identified by a code or number*.” Radican, emphasis added, page 7, lines 3-6. Thus, Radican, by distinguishing between a *designator* and *identifier*, and by stating that a receiving area

has a *designator*, but not an *identifier*, fails to not only teach or suggest all elements of Claim 14, but also shows that it was not obvious to one of ordinary skill in the art that receiving stations could have unique identifiers.

Therefore, Applicant submits that Radican neither teaches nor suggests all features of Applicant's present invention. Accordingly, Applicant respectfully submits that independent Claim 14 is patently distinguishable over the prior art of record.

#### Radican Does Not Teach Scanning an Identification of the Receiving Station

Independent Claim 15 of the present invention recites, in part, "a method of controlling a material flow, comprising:...at least one receiving station...wherein...the at least one attribute and the at least one updated attribute are transmitted, entered, checked, and verified at the receiving station by scanning an identification of the at least one receiving station..." In asserting that Claim 15 is obvious, the Office Action points to Radican claiming Radican teaches that each of said receiving stations has a unique identifier (*see* Radican, page 7, lines 2-11, and 17) and that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Radican to include scanning an identification of the at least one receiving station. Applicant submits that Radican fails to disclose that receiving stations have unique *identifiers* because Radican discloses that 'receiving area Y is assigned a unique *designator*...[and] docks are uniquely *designated*...[and] [m]overs of *shipping containers*, and *each shipping container* is also uniquely identified by a code or number.' Radican, emphasis added, page 7, lines 3-6. Not only does Radican fail to disclose that receiving stations have unique *identifiers*, but also Radican teaches that it was *not obvious* to one of ordinary skill in the art that receiving stations have unique identifiers because Radican in fact distinguishes between *designators* and *identifiers* by specifically stating that a "receiving area" and "docks are uniquely *designated*," whereas

“[m]overs of shipping containers, and each shipping container is *also* uniquely identified by a code or number.” Radican, emphasis added, page 7, lines 3-6. Thus, Radican, by distinguishing between a *designator* and *identifier*, and by stating that a receiving area has a *designator*, but not an *identifier*, fails to not only teach or suggest all elements of Claim 15, but also shows that it was not obvious to one of ordinary skill in the art that receiving stations could have unique identifiers.

Therefore, Applicant submits that Radican neither teaches nor suggests all features of Applicant’s present invention. Accordingly, Applicant respectfully submits that independent Claim 14 is patentably distinguishable over the prior art of record.

## **CONCLUSION**

Wherefore, Applicant believes all outstanding grounds raised by the Office Action have been addressed, and thus respectfully submits that the present case is in condition for allowance, early notification of which is earnestly solicited.

Respectfully submitted,

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